

## Subpart A—Receiving and Processing Applications

SOURCE: 53 FR 35671, Sept. 14, 1988, unless otherwise noted.

### § 1910.1 General.

This subpart prescribes the policies and procedures for informing interested parties of the Farm Credit loan programs available through the Farm Service Agency (FSA), and how such requests are processed. Requests for Nonprogram (NP) assistance will be handled in accordance with subpart J of part 1951 of this chapter. References contained herein to the housing programs of the Rural Housing Service (RHS), or its successor agency, are no longer applicable.

(a) The County Supervisor will provide information about FSA and RHS services to all persons making inquiry about FSA and RHS programs. This information may be provided by individual interviews, correspondence, or distribution of pamphlets, leaflets, and appropriate FSA and RHS regulations.

(b) Wherever the term “applicant” appears in this subpart, it shall be construed to mean applicant and/or co-applicant, if any.

(c) FmHA forms are available in any Rural Development (RD) or FSA office.

(d) The terms “interest credit” and “interest credit assistance,” as they relate to Single Family Housing (SFH), are interchangeable with the term “payment assistance.” Payment assistance is the generic term for the subsidy provided to eligible SFH borrowers to reduce mortgage payments.

(e) As used in this subpart in relation to Farm Credit Programs loans, *Agency* means the Farm Service Agency, its county and State committees and their personnel, and any successor agency.

(f) As used in this subpart, the abbreviation “Lo-Doc” means Low-Docummentation and the abbreviation “OL” means Operating Loan.

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### § 1910.2 Equal Credit Opportunity Act (ECOA) and Regulation B.

ECOA as amended, prohibits discrimination in credit based on sex, marital status, race, color, religion, natural origin, age (provided the applicant has the capacity to contract), because all or part of the applicant’s income is derived from public assistance of any kind, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act. These shall hereafter be referred to in this subpart as “ECOA prohibited bases.” It is the policy of the Farmers Home Administration or its successor agency under Public Law 103-354 that assistance and services shall not be denied to any person or applicant as a result of race, sex, national origin, color, religion, marital status, age, receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act.

### § 1910.3 Receiving applications.

Applications for FSA or RHS assistance will ordinarily be filed in the County Office serving the area in which the farm, dwelling, business, or other facility for which financing is being requested is or will be located.

(a) All persons applying for FSA or RHS assistance who are not indebted to FSA or RHS must file a written application. All persons wishing to submit an application will be encouraged to do so. No oral or written statement will be made to applicants or prospective applicants that would discourage them from applying for assistance, based on any ECOA “prohibited bases.” The filing of written applications *will be encouraged* even though funds may not be currently available, since complete applications must be considered in the date order received, except when program regulations or Veteran status provides for preference. Applications will normally be handled as follows:

(1) Form FmHA 410-4, “Application for Rural Housing Assistance (Non-Farm Tract),” will be used by applicants for RH loans on nonfarm tracts who depend primarily on off-farm income.

(2) Form FmHA 410-1, “Application for FmHA Services,” will be used by all

other applicants. These include persons applying for RH loans on farms or non-farm tracts who derive a major portion of their income from farming. For EM loans, it is also necessary for the applicant to complete Form FmHA 1945-22, "Certification of Disaster Losses."

(3) SF 424.2, "Application for Federal Assistance (For Construction)," with the requirements outlined in the applicable program exhibits will be used by all applicants applying for LH loans.

(4) The Right to Financial Privacy Act of 1978, Title XI of Pub. L. 95-630, requires that:

(i) Except as specified in paragraph (a)(4)(ii) of this section, within 3 days of the receipt of an application for a loan or grant from an individual or a partnership of five or fewer members, the RD office will forward Form FmHA 410-7, "Notification to Applicant on Use of Financial Information from Financial Institution," to those applicants.

(ii) For a labor housing application filed by an individual or a partnership of five or fewer members, the RD office will comply with paragraph (a)(4)(i) of this section only if it is determined that financial information will be requested from any financial institution.

(5) All individual loan applicants will sign Form FmHA or its successor agency under Public Law 103-354 410-9, "Statement Required by the Privacy Act." A signed copy will remain with the application. No application is complete without a signed Form FmHA or its successor agency under Public Law 103-354 410-9 on file.

(6) Information regarding race, national origin, sex, and marital status is needed for monitoring purposes for all applications filed for assistance to finance residential real estate and direct FO loans when the loan is to be secured by a lien on the property. In those cases, FmHA or its successor agency under Public Law 103-354 will request the applicant and/or co-applicant to furnish that information on the application on a voluntary basis. The application form will indicate that this information is provided on a voluntary basis.

(7) Applicants are asked to identify any known relationship or association with an FmHA or its successor agency

under Public Law 103-354 employee when completing the application. When there is a relationship or association, the processing official must complete the action required under subpart D of part 1900 of this chapter.

(b) Requests by FmHA or its successor agency under Public Law 103-354 borrowers for additional assistance will be submitted as prescribed by each loan/grant program, and the following:

(1) All applicants must provide their taxpayer's identification number with their applications, except as noted in paragraph (i) of this section.

(2) RH applicants who have a current Form FmHA or its successor agency under Public Law 103-354 1944-3, "Budget and/or Financial Statement", or Form FmHA or its successor agency under Public Law 103-354 410-4, and who are presently indebted to FmHA or its successor agency under Public Law 103-354, will be required to complete only the following items of Form FmHA or its successor agency under Public Law 103-354 410-4 (if other information about their current status is not available for adequate processing of their applications, these applicants should fully complete Form FmHA or its successor agency under Public Law 103-354 410-4):

- (i) Name.
- (ii) Social Security Number.
- (iii) Loan purpose.
- (iv) Planned income for next 12 months.
- (v) Date and signature of the application.

(3) Farmer Program applicants who are presently indebted to FmHA or its successor agency under Public Law 103-354 will be required to complete Form FmHA or its successor agency under Public Law 103-354 410-1. When application is made within 60 days of the date of table A, "Balance sheet," on Form FmHA or its successor agency under Public Law 103-354 431-2, "Farm and Home Plan," and there are no significant changes that would affect eligibility, reference to table A of Form FmHA or its successor agency under Public Law 103-354 431-2 can be made in Item 17, "Financial Statement as of Date of Application," of Form FmHA or its successor agency under Public Law 103-354 410-1.

(4) Applicants for EM loans with new losses from disaster, as authorized under EM regulations, must also complete Form FmHA or its successor agency under Public Law 103–354 1945–22 in addition to the other required forms.

(c) County Office employees will be responsible for receiving loan applications and giving a preliminary explanation of services available through FmHA or its successor agency under Public Law 103–354. An explanation of the types of assistance available should be given whenever it is not clear to the applicant what type of loan or grant will meet the applicant's needs. The employee receiving the application will make sure that it is properly completed, dated and signed, and will give whatever assistance is necessary. An applicant may apply for and maintain a loan account using a birth-given first name and a birth-given surname, or the spouse's surname, or a combination of surnames. Married persons may apply as individuals. In the case of a joint application for other than a farmer program loan, the persons requesting the assistance will designate who is listed as "applicant" and who is listed as "co-applicant." For farmer program loans, there will be only one applicant. If a husband and wife insist on applying as co-applicants for a farmer program loan and the farming operation is a sole proprietorship, they will be considered a joint operation and they both will have to meet the eligibility requirements applicable to the joint operation. County Office employees must explain to husbands and wives that they both do not need to apply for farmer program loans unless they desire to do so or the application is for an entity operation. If they apply together for a loan, it must be explained that they will be considered as a joint operation. When the use of veteran's preference is involved, the identity of the veteran must be properly documented if the name used in the application differs from that shown on the veteran's evidence of eligibility.

(d) Information will be obtained about household members or others, including cosigners, as required by program regulations needed to determine eligibility for the requested assistance. A cosigner will be required only when

it has been determined that the applicant cannot possibly meet the repayment or the security requirements for the loan request. When a co-signer will be required, the applicant will be requested to identify their choice of co-signer. An applicant will also be required to provide information concerning a co-signer, spouse or former spouse, who will not be a co-signer, or who is not a member of the household, when the applicant is relying on the co-signer, alimony, child support, separate maintenance from that spouse or former spouse as a basis for repayment, or receipt of such payments will be considered for eligibility. In such cases, information regarding the co-signer's, spouse's or former spouse's financial resources may be requested. Only information regarding the receipt and dependability of income from alimony, child support, or separate maintenance, provided by a former spouse, may be requested, considered, and verified to determine eligibility and repayment ability.

(e) Signature requirements on the Promissory Note will be as needed to assure repayment of the indebtedness and as set out in the loan making regulations. The spouse of an applicant will not be required to sign the note unless the spouse's signature on the note is required to create a security interest or the spouse is a co-applicant. Signature requirements on the Mortgage or Deed of Trust will be sufficient to obtain the required lien, and to make the property being offered as security available to satisfy the debt in the event of default. FmHA or its successor agency under Public Law 103–354 State supplements will be issued to outline the requirements in accordance with State real property law. The State Director will obtain the advice of OGC prior to issuance of the State supplement.

(f) If a spouse's signature would be necessary for FmHA or its successor agency under Public Law 103–354 to obtain the necessary security, information regarding an applicant's marital status will be obtained. Only the terms "married" and "separated" may be used to designate marital status. "Unmarried" includes single, divorced, or widowed persons.

(g) FmHA or its successor agency under Public Law 103-354 may not request information concerning birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. Assumptions or aggregate statistics relating to the likelihood or probability that any particular group of persons will bear or rear children will not be used to evaluate creditworthiness, or for any other purpose; nor will the assumption be made that, for that reason, an applicant will receive diminished or interrupted income in the future.

(h) If after discussing credit needs, it appears that the applicant may be able to obtain the necessary credit from some other source, the County Supervisor should provide information on the availability of such credit and provide the needed assistance in contacting that credit source. All applications, including those from applicants assisted in obtaining credit from other credit sources, will be listed and reported in accordance with FmHA or its successor agency under Public Law 103-354 Instructions 1905-A and 2006-J which are available in all FmHA or its successor agency under Public Law 103-354 offices.

(i) For all loans and grants, the applicant *must* furnish the applicant's taxpayer's identification number with the application, except as otherwise indicated in this paragraph. The taxpayer's identification number for individuals who are not business applicants is the Social Security Number (SSN). The taxpayer's identification number will be used as part of the borrower's case number, except as noted in paragraph (i)(3) of this section.

(1) The SSN preceded by the State and county code numbers will constitute the borrower's case number to be used on all FmHA or its successor agency under Public Law 103-354 forms.

(2) In the case of noncitizens who are permanent residents or on indefinite parole and who do not yet have a taxpayer's identification number, their applications will be filed; however, they will not be processed until the SSN is obtained. Disposition of applications not processed because of lack of the number will be as set forth in

FmHA or its successor agency under Public Law 103-354 Instruction 2033-A, "Management of County Office Records," (available in any FmHA or its successor agency under Public Law 103-354 office).

(3) The borrower's case number for residents of the Pacific Islands will be taxpayer's identification number issued by the Pacific Islands Government.

(j) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 family residential units, or FO loans involving tracts of 25 acres or less, whether made to an individual, corporation, partnership, joint operation, cooperative, association, or other entity, the booklet entitled "Settlement Costs" will be hand-delivered to the applicant when the completed application is received, or mailed to the applicant within three (3) business days after receipt of the application in the County Office.

(1) Form FmHA or its successor agency under Public Law 103-354 440-58, "Estimate of Settlement Costs," will be completed by the County Supervisor and delivered to the applicant with the booklet.

(2) A record of the date and method of delivery of the booklet and Form FmHA or its successor agency under Public Law 103-354 440-58 will be kept in the running record section of the applicant's/borrower's County Office case folder.

(k) For loans, assumptions and credit sales to individuals for household purposes that are subject to the Real Estate Settlement Procedures Act (RESPA), Form FmHA or its successor agency under Public Law 103-354 1940-41, "Truth in Lending Disclosure Statement," will be completed using "good-faith" estimates, and will be delivered or placed in the mail to the applicant within 3 business days of receipt of the written application in the County Office.

(l) Fees for the total amount charged for individual credit reports as indicated in exhibit A of subpart B of part 1910 of this chapter (available in any FmHA or its successor agency under

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Public Law 103-354 office) will be collected from the loan applicants before credit reports are ordered, except in the case of section 504 loan applicants and section 502 Rural Housing Loan applicants whose requested loan will likely not exceed \$7,500. It is the policy not to order credit reports for Rural Housing loans of \$7,500, or less, but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53(g) of subpart B of part 1910 of this chapter.

[53 FR 35671, Sept. 14, 1988, as amended at 54 FR 11365, Mar. 20, 1989; 55 FR 21524, May 25, 1990; 56 FR 66959, Dec. 27, 1991; 58 FR 226, Jan. 5, 1993; 58 FR 44263, Aug. 20, 1993; 61 FR 35919, July 9, 1996; 62 FR 9353, Mar. 3, 1997]

#### § 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA or its successor agency under Public Law 103-354 personnel will be covered by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA or its successor agency under Public Law 103-354. If a farm is situated in more than one State, County or Parish, the loan will be processed in the State, County or Parish where the applicant's principal residence on the farm is located. If the applicant's residence is not located on the farm or if the applicant is a corporation, cooperative, partnership or joint operation, the loan will be processed by the County Office serving the County in which the farm or a major portion of the farm is located, unless otherwise approved by the State Office. Applications of FmHA or its successor agency under Public Law 103-354 employees, members of their families, close relatives, or business or close personal associates are processed according to subpart D of part 1900 of this chapter.

(a) *Completed RH applications.* Completed applications are those as described in § 1944.27 (copies available in any REDC office), and all applications for Rural Housing loans will be processed as outlined in that instruction.

(b) *Completed Farm Loan Programs applications and additional FSA responsibilities.* All persons requesting an applica-

tion will be provided exhibit A (available in any office). The County Supervisor will provide assistance as necessary to help applicants complete their applications. Complete applications will be processed in the order of date received, except as outlined in § 1910.10 of this subpart. If the application is complete when it is first received, a County Office official will stamp the filing date on the front of Form FmHA 410-1 and enter the date in the "Application Received" and "Application Completed" fields in the Application Processing Module of the Management Records Systems (MRS.) On the date all information necessary to process an application is received, a County Office official will send the applicant FmHA Guide Letter 1910-A-3 (available in any office) notifying the applicant that the application is considered complete. The date entered in the "Application Completed" field in the Application Processing Module of MRS will establish the 30-day and 60-day timeframes for determining eligibility and loan approval/disapproval, respectively. The County Supervisor will verify the information furnished by the applicant, and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Additional information may be obtained and verified by County Office records, personal contacts, and visits to the applicant's operation. Applicants who request a waiver of the direct OL term limits in accordance with subpart A of part 1941 of this chapter based on the facts that their land is subject to the jurisdiction of an Indian tribe and their loan is secured by one or more security instruments subject to the jurisdiction of an Indian tribe, automatically consent to the Agency releasing information as necessary to the Bureau of Indian Affairs to confirm these facts. A complete Farm Loan Programs application requires fulfillment of both the applicant and FSA responsibilities, except as provided in paragraph (c) of this section. Once this information is received and the application is considered complete, FSA has additional responsibilities before loan approval is determined. The various responsibilities are as follows: